

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JEROME W. PEPMUELLER, JR.,

Case No. 2:20-cv-01694-EJY

Plaintiff,

v.

ORDER

ANDREW SAUL, Commissioner of Social
Security,

Defendant.

Before the Court is Plaintiff Jerome W. Pepmuller, Jr.'s Application for Leave to Proceed *in forma pauperis*. ECF No. 1. Plaintiff challenges the Social Security Administration's denial of Social Security Disability Insurance benefits and Supplemental Security Income benefits.

I. Application to Proceed *in forma pauperis*

Plaintiff submitted the declaration required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Accordingly, Plaintiff's request to proceed *in forma pauperis* is granted.

II. Screening the Complaint

Upon granting a request to proceed *in forma pauperis*, a court must additionally screen the complaint pursuant to 28 U.S.C. § 1915(e). A plaintiff must satisfy the following procedural requirements in order to file a complaint in a Social Security appeal before a federal district court: (1) the plaintiff must establish that she has exhausted her administrative remedies pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within sixty days after notice of a final decision; (2) the complaint must indicate the judicial district in which the plaintiff resides; (3) the complaint must state the nature of the plaintiff's disability and when the plaintiff claims she became disabled; and, (4) the complaint must contain a plain, short, and concise statement identifying the nature of the plaintiff's disagreement with the determination made by the Social Security Administration and show that the plaintiff is entitled to relief. *Montoya v. Colvin*, Case No. 2:16-cv-00454-RFB-NJK, 2016 WL 890922, at *2 (D. Nev. Mar. 8, 2016) (internal citations omitted).

1 Plaintiff's Complaint represents that he has exhausted his administrative remedies and timely
2 commenced this action after the Social Security Administration's Appeal Council denied his request
3 for review. ECF No. 1-1 ¶ 8. The Complaint further indicates the judicial district within which
4 Plaintiff resides (*id.* ¶ 1), and alleges that he has been disabled at all times relevant to this action due
5 to "cervical and lumbar spine degenerative disc disease; arthritis of the knees; obesity; Parkinson's
6 disease; sensorineural hearing loss; essential hypertension; Sjogren's syndrome; peripheral
7 neuropathy; and[,] a learning disorder[.]" *Id.* ¶ 9(a). Plaintiff's Complaint also alleges that the
8 Commissioner committed reversible error because the ALJ "failed to properly evaluate the medical
9 evidence of record, failed to properly evaluate [Plaintiff's] subjective complaints, and failed to
10 sustain his burden at step five of the sequential evaluation." *Id.* ¶ 9(e). Plaintiff's Complaint shall
11 therefore proceed against Defendant.

12 Accordingly,

13 IT IS HEREBY ORDERED that Plaintiff's Application for Leave to Proceed *in forma*
14 *pauperis* (ECF No. 1) is GRANTED.

15 IT IS FURTHER ORDERED that Plaintiff's Complaint (ECF No. 1-1) **shall** proceed against
16 Defendant.

17 IT IS FURTHER ORDERED that the Clerk of the Court **shall** detach and file Plaintiff's
18 Complaint (ECF No. 1-1).

19 IT IS FURTHER ORDERED that the Clerk of the Court **shall** serve the Commissioner of
20 the Social Security Administration by sending a copy of the Summons and Complaint by certified
21 mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160
22 Spear Street, Suite 800, San Francisco, CA 94105, and (2) the Attorney General of the United States,
23 Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

24 IT IS FURTHER ORDERED that the Clerk of the Court **shall** issue Summons to the United
25 States Attorney for the District of Nevada, and deliver the Summons and Complaint to the U.S.
26 Marshal for service.

27 IT IS FURTHER ORDERED that Defendant **shall** have **sixty (60) days** from the date of
28 service to file his answer or responsive pleading to Plaintiff's Complaint in this case.

1 IT IS FURTHER ORDERED that, henceforth, Plaintiff **shall** serve upon Defendant a copy
2 of every pleading, motion, or other document submitted for consideration by the Court. Plaintiff
3 shall include with the original paper submitted for filing a certificate stating the date that a true and
4 correct copy of the document was mailed to Defendant. The Court may disregard any paper received
5 by a district judge, magistrate judge, or the Clerk of the Court which fails to include a certificate of
6 service.

7 DATED THIS 17th day of September, 2020.

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10 ELAYNA J. YOUCHAH
11 UNITED STATES MAGISTRATE JUDGE
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